

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**vs.**

**No. CIV 11-1109 RB/LFG**

**REAL PROPERTY LOCATED AT 6600 AND 6560  
VENTURA ROAD SE, DEMING, NM, and 6545  
EL PORTAL ROAD SE, DEMING, NM, INCLUDING  
ALL STRUCTURES, APPURTENANCES AND  
IMPROVEMENTS THEREON, CONTAINING 85 ACRES  
MORE OR LESS, OWNED BY RICK AND  
TERRI REESE, EL AL.,**

**Defendants.**

**MEMORANDUM OPINION AND ORDER**

**THIS MATTER** is before the Court on the Government's Motion to Strike the Claims and Answers of Rick Reese and Terri Reese With Respect to Certain Defendants *In Rem* (Doc. 78). Briefing is complete. Having considered the submissions of counsel, the record, and relevant law, the Court denies this motion.

**I. Background**

On August 24, 2011, Rick Reese, Terri Reese, Ryn Reese, and Remington Reese were charged in a thirty-count Indictment with: conspiracy to commit the crimes of making false statements in connection with the acquisition of firearms and smuggling goods from the United States, (Count 1); knowingly making false statements in connection with the acquisition of firearms, (Counts 2-10); smuggling firearms and ammunition from the United States, (Counts 11-28); aiding and abetting, (Counts 2-28); and conspiracy to commit money laundering, (Counts 29-30).

The Indictment included forfeiture allegations providing that, if they are convicted,

Defendants must forfeit, *inter alia*, their interest in all firearms and ammunition involved in those offenses, the proceeds of the offenses, and the property used to facilitate the crimes, including the assets of New Deal Shooting Sports and real property located at 6600 Ventura Road SE, Deming, New Mexico, pursuant to 18 U.S.C. §§ 924(d), 981(a)(1)(C), and 982(a); 19 U.S.C. § 1595a(d), and 28 U.S.C. § 2461(c).

On August 26, 2011, United States Magistrate Judge William P. Lynch issued seizure warrants based on probable cause that authorized federal law enforcement officers to seize assets belonging to Old Ironsides, LLC, d/b/a New Deal Shooting Sports, owned by Rick Reese and located at 6600 Ventura Road SE, as well as funds from a bank account held in the name of Old Ironsides, LLC, d/b/a New Deal Shooting. *See In the Matter of the Seizure Warrants* numbered 11-577 MR and 11-578 MR.

On December 19, 2011, the Government filed a Verified Complaint for Forfeiture *In Rem* against the same assets and based on the same grounds for forfeiture as listed in the Indictment and several additional legal grounds. *See United States v. Real Property at 6600 & 6560 Ventura Rd. SE and 6545 El Portal Rd. SE in Deming, NM, et al.*, CIV 11-1109 RB/LFG (“civil case”). Rick Reese and Terri Reese filed verified notices of claim and answers in the civil case. Ryan Reese and Remington Reese disclaimed all interest in the subject property. On June 15, 2012, the civil case was stayed on the Government’s motion. On November 16, 2012, United States Magistrate Judge Lorenzo F. Garcia extended the stay through sentencing in the criminal case. There has been no discovery in the civil case.

Trial commenced in the criminal case on July 17, 2012. At the close of the Government’s case, on July 27, 2012, Defendants moved for judgment of acquittal on all counts, pursuant to Federal Rule of Criminal Procedure 29. On July 31, 2012, the Court granted the motion as to

Counts 29 and 30, and denied the Motion as to all other counts. Counts 1-28 were submitted to the jury. On August 1, 2012, as the jury was deliberating, the parties agreed that the Government would dismiss the forfeiture allegations in the criminal case and Defendants would waive their right to a jury trial in the civil case. The parties memorialized this agreement on the record on the afternoon of August 1, 2012.

On August 1, 2012, the jury returned a verdict finding Ryin Reese guilty on Counts 7 and 8 (knowingly making false statements in connection with the acquisition of firearms on June 15, 2011, and July 7, 2011), Rick Reese guilty on Count 9 (knowingly making false statements in connection with the acquisition of firearms on July 29, 2011), and Terri Reese guilty on Count 10 (knowingly making false statements in connection with the acquisition of firearms on July 29, 2011). The jury acquitted Defendants on all other counts. On December 31, 2012, Defendants filed a Motion for a New Trial in the criminal case. On February 1, 2013, the Court granted the Motion for a New Trial. On March 4, 2013, the Government appealed the grant of the new trial. The appeal remains pending.

In its Motion to Strike the Claims and Answers of Rick Reese and Terri Reese, the Government moves to strike the claims and answers of Rick Reese and Terri Reese (“Claimants”) as they relate to subject property owned by Old Ironsides, LLC (“Old Ironsides”) for lack of standing. The Claimants respond that they established standing as to the property owned by Old Ironsides and concede that Terri Reese cannot establish an interest in property owned by Ryin Reese or Remington Reese.

## **II. Discussion**

The Tenth Circuit has held that a claimant bears the burden of establishing his or her constitutional standing at all stages in the litigation. *See United States v. \$148,840 in U.S.*

*Currency*, 521 F.3d 1268, 1273 (10th Cir. 2008). “At the pleading stage, a claimant satisfies this burden by alleging a sufficient interest in the seized property, such as an ownership interest, some type of lawful possessory interest, or a security interest.” *Id.* The required ownership interest can be demonstrated in a variety of ways, “including showings of actual possession, control, title and financial stake.” *Id.* at 1275 (quoting *United States v. 1998 BMW “I” Convertible*, 235 F.3d 397, 399 (8th Cir. 2000)).

Rick Reese’s Verified Notice of Claim states that “he claims an ownership interest on all of the real and personal property listed as a defendant . . . [and] Rick Reese is the owner of Old Ironsides, LLC and New Deal Shooting Sports.” (Doc. 29). The Verified Claim and Statement of Interest of Terri Reese declares that all of the subject property is her personal property, or property owned by Old Ironsides, and she has an ownership interest in Old Ironsides. (Doc. 30). Notably, the property was seized from the Claimants’ home and family business. The Tenth Circuit has recognized that “courts have held that an allegation of ownership and some evidence of ownership are together sufficient to establish standing to contest a civil forfeiture.” *\$148,840 in U.S. Currency*, 521 F.3d at 1275 (citing *United States v. U.S. Currency, \$81,000,189* F.3d 28, 35 (1st Cir. 1999)). In that this matter remains at the pleading stage, the Claimants have alleged sufficient ownership interests and lawful possessory interests in the seized property to confer standing with respect to the subject property owned by Old Ironsides.

**THEREFORE,**

**IT IS ORDERED** that the Government’s Motion to Strike the Claims and Answers of Rick Reese and Terri Reese With Respect to Certain Defendants *In Rem* (Doc. 78), is **DENIED**.




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**ROBERT C. BRACK**  
**UNITED STATES DISTRICT JUDGE**